

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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PRO SE SERVICES, et al.,

Appellants,

v.

A&A AUTO WRECKING, LLC,

Appellee.

Case No. 3:13-cv-00244-MMD-VPC

ORDER

(Appellant's Emergency Motion for Stay
Pending Appeal – dkt. no. 5)

Before the Court is Appellants Pro Se Services, Inc., Steve Espinoza, and Maria Espinoza's (collectively "Pro Se") Emergency Motion for Stay Pending Appeal. (See dkt. no. 5.) Based on the reasoning set forth below, the Motion is denied.

Pro Se appeals from the Bankruptcy Court's Order Authorizing Debtor to Sell Personal Property Free and Clear of Liens and Encumbrances. *In re A&A Auto Wrecking, LLC*, No. 12-50686-btb (Bankr. D. Nev. Apr. 23, 2013), ECF No. 295. The Notice of Appeal was filed on May 7, 2013, and the case brought before this Court on May 8, 2013. *In re A&A Auto Wrecking, LLC*, ECF No. 299; (see dkt. no. 1). On May 20, and subsequent to the Notice's filing, Pro Se filed in the Bankruptcy Court its Motion for Stay Pending Appeal seeking to stay the transfer of a disputed truck which was ordered sold by the Bankruptcy Court's order. *In re A&A Auto Wrecking, LLC*, ECF No. 309. A day later, Pro Se brought the instant Emergency Motion before this Court seeking the same relief it asked for in its Motion for Stay. (See dkt. no. 5.) On May 23, 2013, Pro Se filed a Notice of Hearing informing Appellee A&A Auto Wrecking, LLC that

1 the hearing on the Motion for Stay before the Bankruptcy Court is scheduled for June 26,
2 2013. *In re A&A Auto Wrecking, LLC*, ECF No. 319.

3 After reviewing the parties' filings and the record below, the Court declines to
4 entertain Pro Se's Emergency Motion. Pro Se has failed to demonstrate any reason not
5 to let the Bankruptcy Court hear and decide the Motion for Stay. "Motions for stay
6 pending appeal or for other relief pending appeal must ordinarily be presented to the
7 bankruptcy court in the first instance, Fed. R. Bankr. P. 8005, before the movant may
8 seek relief from the BAP or the district court, as the case may be." *In re Ho*, 265 B.R.
9 603, 604 (B.A.P. 9th Cir. 2001). "A motion for such relief, or for modification or
10 termination of relief granted by a bankruptcy judge, may be made to the district court or
11 the bankruptcy appellate panel, but the motion shall show why the relief, modification, or
12 termination was not obtained from the bankruptcy judge." Fed. R. Bankr. P. 8005. Here,
13 Pro Se does not provide sufficient cause as to why the Bankruptcy Court should not
14 have the opportunity to decide the Motion, particularly when it is best poised to evaluate
15 the merits of the disagreement concerning the disputed property. Further, it is not clear
16 whether the Debtor has the authority to transfer the disputed property before the
17 Bankruptcy Court concludes its June 26, 2013 hearing. Pro Se has thus failed to
18 provide sufficient reason to deviate from ordinary procedure mandated in Rule 8005.

19 Accordingly, IT IS HEREBY ORDERED that Appellant's Emergency Motion for
20 Stay Pending Appeal (dkt. no. 5) is DENIED.

21 DATED THIS 24th day of May 2013.

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24 MIRANDA M. DU
25 UNITED STATES DISTRICT JUDGE
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